

STATE OF MICHIGAN  
COURT OF APPEALS

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In re DOYLE LAMONE MCGEE, JR., Minor.

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PEOPLE OF THE STATE OF MICHIGAN,

Petitioner-Appellee,

v

DOYLE LAMONE MCGEE, JR.,

Respondent-Appellant.

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UNPUBLISHED

September 12, 2006

No. 260580

LC No. 04-426271-DL

Before: Davis, P.J., and Cooper and Borrello, JJ.

COOPER, J. (*concurring in part, dissenting in part*).

I join with the majority in result and analysis except as pertains to Part III of the majority opinion, Sufficiency of the Trial Court's Findings. In Part III of the opinion, the majority finds that the trial court satisfied its obligation as the fact finder. I disagree, and would find that the trial court's role<sup>1</sup> in stating findings of fact and conclusions of law requires more than the single statement of fact provided by the trial court here.

Although this Court has concluded that "so long as it appears from the court's findings of fact that the court was aware of the issues and correctly applied the law, the findings of fact will be adequate to support the conviction," *People v Evans*, 173 Mich App 631, 635; 434 NW2d 452 (1988), it is nonetheless still true that a full finding of fact as to each element of the crime charged "shows how the trial court resolved credibility issues and conflicts within the evidence," and "reveals the law the trial court applied," *People v Davis*, 126 Mich App 66, 69; 337 NW2d 315 (1983).

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<sup>1</sup> MCR 2.517(A)(1): "In actions tried on the facts without a jury or with an advisory jury, the court shall find the facts specially, state separately its conclusions of law, and direct entry of the appropriate judgment."

MCR 6.403: "When trial by jury has been waived, the court with jurisdiction must proceed with the trial. The court must find the facts specially, state separately its conclusions of law, and direct entry of the appropriate judgment. The court must state its findings and conclusions on the record or in a written opinion made a part of the record."

Findings of fact and conclusions of law should include all of the facts upon which the judge bases his decision. The findings should be concisely stated and should not include a recitation of the evidence. A good test of their sufficiency is whether or not the findings would reflect what was tried, the issues presented and their disposition in the event they were subsequently reviewed in the light of a plea of res judicata or estoppel by judgment. [*The State Trial Judge's Book*, 2nd Ed., West Publishing, 1969, p 196]

I would find it was inappropriate for the trial court in this matter to fail to develop a more thorough record of findings and conclusions, because the appellate process requires significant reliance on the record developed below.

However, because this error does not rise to the level of reversible error, I concur in result.

/s/ Jessica R. Cooper